

Menu Item for Participating in *Air Rulemaking and Enforcement*

TRIBAL AIR WORK PLAN OBJECTIVE: To reduce emissions of criteria pollutants or air toxics by setting and enforcing emission standards or work practice requirements for stationary, area, or mobile sources of air pollution on tribal lands.

Background: Participating in *Rulemaking and Enforcement* activities normally follows after a Tribe has assessed the nature and seriousness of air pollution and its impact on their reservation communities and evaluated what types of rules are needed to protect air quality and prevent pollution. Rulemaking may involve the drafting and promulgation of tribal rules or a Tribal Implementation Plan (TIP), or participating in the federal rulemaking process, either through a Federal Implementation Plan (FIP) or a State Implementation Plan (SIP), for example to bring a NAAQS *Non-attainment Area* into attainment or to maintain the air quality of a NAAQS *Attainment Area*. Enforcement of air quality rules may be under tribal authority, through assisting with federal rules enforcement or through delegation of enforcement authority under specific Clean Air Act sections.

Funding Mechanism: This objective and supporting activities may qualify for EPA financial support through the grant authority of, principally, Clean Air Act §105 program grants. Contact your nearest Regional Air Program Office for further information.

ACTIVITIES / TASKS: The following *tasks* or *activities* are options for a grant applicant to consider in developing a work plan that includes rulemaking and enforcement. Adapting these needs to respond to those ~~needs~~ of a specific reservation or tribal community is encouraged. EPA Regional Offices are available to provide technical advice on what a particular tribe may require to adequately support their proposed workplan activities. A *timeline* is then created by estimating the dates by which each task, and sub-task, will be completed in order to accomplish the objective by the planned date.

- Preparation of delegation request for federal regulations (such as Part 71, PSD, NSPS, NESHAP, MACT, etc.) following delegation guidance.
- Adopt and implement regulations with emission standards or work practice requirements for:
 - stationary sources (e.g., reasonably available control technology or RACT standards for NOx and VOC sources)
 - area sources (e.g., burn barrel restrictions, asbestos demolition work practice standards, waste dumping restrictions)
 - mobile sources (e.g., idling prohibitions, motor vehicle inspection and maintenance requirements)
- Adopt and implement New Source Review (NSR) permit regulations for major or minor stationary sources.
- Adopt and implement Title V permit program regulations.
- Adopt and implement source-specific regulations to restrict potential emissions.
- Preparation of TIP following TIP guidance.

Note: TIPs give tribal programs federal authority and backing, however, tribes have inherent authority to develop regulations in an Air Quality Management Program without federal authority and backing, if they choose.

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- Preparation of TIP cont:
 - regulatory programs
 - source specific programs
 - area-wide limits/controls
 - mobile source issues
 - point source issues (e.g., burn barrel restrictions)
 - inspection/enforcement
 - NOx attainment strategies
 - source pre-construction permits
 - regional haze plans
- Operate an air enforcement program:
 - Plan enforcement activities and target inspections/investigations
 - Conduct inspections and draft inspection reports
 - Review compliance certifications and stack test or continuous emission monitor (CEM) reports
 - Issue notices of violations (NOVs), administrative orders or administrative complaints
 - Negotiate settlements or proceed with enforcement actions

WORK PLAN RESULTS: Results from EPA grant funded activities (also known as “deliverables”) are characterized as either *outputs* or *outcomes*. Both are important means of documenting grant accomplishments. For explanation of *outputs* and *outcomes* see the Menu Item for *Air Quality Administration Infrastructure*

Possible Outputs:

- Regulations codified or ordinances enacted by Tribal government.
- Inspections completed.
- Enforcement actions taken (e.g., number of NOVs, administrative orders or complaints).
- TIP submitted to EPA.
- Delegation request submitted to EPA.

Possible Outcomes:

Expressed as a result of an individual Tribal grant:

- Number of tons/pounds removed from the air as result of promulgated regulations.
- Dollars in penalties collected or dollars in value of environmentally beneficial supplemental enforcement projects (SEPs) completed impacting tribal air quality.

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Expressed as a measure of overall Tribal program performance (over a stated baseline or cumulative total):

- Increase in the number of tribes who have enacted tribal air quality regulations or ordinances.
- Increase in the number of tribes who have submitted a Tribal Implementation Plan (TIP).
- Increase in the number of Tribes who have been granted an approved TIP.
- Increase in the number of tribes assisting with implementation of Federal Implementation Plans or other regulations.
- Increase in the number of Tribes who have requested delegation of a Clean Air Act regulatory program.
- Increase in the number of Tribes who have been granted delegation of a Clean Air Act regulatory program
- Increase in the number of tribal air quality enforcement actions taken.
- Increase in the number of tons/pounds removed from the air as result of tribal regulations.
- Increase in the dollars in penalties collected by tribes or in the value of environmentally beneficial SEPs completed.
- Increase in the number of environmentally beneficial SEPs completed. (Or the measurable environmental benefits of the SEPs.)

FY 2006 NATIONAL EPA PERFORMANCE MEASURE(S):

The following illustrates what be used to measure EPA's progress in this area during fiscal year 2006.

- Number of tribes actively participating in regulatory air quality management, including submitting a TIP to EPA for approval, substantial assistance with the implementation of a FIP, or direct implementation of their own tribal air quality regulations to reduce the level or impact of air pollution